

Message Text

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ORIGIN IO-02

INFO OCT-01 ARA-02 ADP-00 /005 R

66664

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APPROVED BY: IO/ CMD: DNFORMAN

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R 232125 Z MAR 73

FM SECSTATE WASHDC

TO AMEMBASSY QUITO

C O N F I D E N T I A L STATE 051589

FOLL SENT ACTION PANAMA INFO USUN 21 MAR 73 REPEATED TO YOU QUOTE

C O N F I D E N T I A L STATE 051589

E. O. 11652: GDS

TAGS: PFOR, UNSC PM

SUBJECT: PANAMA SC MEETING: RES ON PERMANENT SOVEREIGNTY

REF: PANAMA 1464 PANAMA 1490

1. REVISED TEXT OF PERUVIAN- PANAMANIAN DRAFT RES ON
SOVEREIGNTY OVER NATURAL RESOURCES IS UNACCEPTABLE TO US
FOR FOLLOWING REASONS:

A. WE DO NOT BELIEVE THIS IS APPROPRIATE SUBJECT FOR SC
ACTION UNDER CHARTER. BASIC RESPONSIBILITY OF SC IS
MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY. WE DO NOT
ACCEPT PREMISE OF DRAFT RES, I. E., THAT COERCIVE MEASURES
EXIST AND ARE BEING USED THAT ARE LIKELY TO ENDANGER PEACE
AND SECURITY IN LATIN AMERICA.

B. IN ADDITION, WE BELIEVE " REAFFIRMATION" OF BROAD GA
RESES ON SUBJECT OF THIS SORT IS DILUTION OF SC FUNCTIONS
AND DEPLORABLE INSTITUTIONAL PRECEDENT-

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C. PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES IS PART OF SUBJECT MATTER WITH WHICH GA SHOULD CONCERN ITSELF AND IS ALREADY BEFORE ECOSOC.

D. RE SECOND PREAMBULAR PARA, WE DO NOT BELIEVE ANY

MEASURES NOW BEING TAKEN AFFECT EXERCISE OF PERMANENT SOVEREIGNTY AS SET FORTH IN RES 1803 (XVII).

E. ACCUSATORY IMPLICATIONS AND LACK OF PRECISION AND CLARITY OF OPERATIVE PARA 1 MAKE IT UNSATISFACTORY. MOREOVER THIS PARA CAN BE, AND MAY INDEED BE INTENDED TO BE, READ AS URGING STATES TO TAKE MEASURES WHICH WOULD PRECLUDE ENTERPRISES FROM PURSUING THEIR LEGAL RIGHTS UNDER INTERNATIONAL LAW (IN ACCORDANCE WITH RES 1803). US OF COURSE WOULD OPPOSE IMPROPER COERCION OR INTERFERENCE ON PART OF ENTERPRISES.

F. PHRASING OF OPERATIVE PARA 2 IS SO BROAD AS TO INTERDICT USE OF SUCH COERCIVE MEASURES AS UN AND OAS CHARTERS AND INTER- AMERICAN TREATY OF RECIPROCAL ASSISTANCE PRESCRIBE IN CERTAIN CIRCUMSTANCES.

2. WE CONCUR IN EXCELLENT COMMENTS CONTAINED PANAMA 1490 IN BUTTRESSING OUR REASONS FOR NOT SUPPORTING THIS RESOLUTION.

3. IN VIEW OF ABOVE WE SEE NO RPT NO POINT IN SEEKING AMENDMENTS TO MAKE RES ACCEPTABLE TO US. BEST OUTCOME FROM OUR POINT OF VIEW WOULD BE TO HAVE RES TABLED BUT NOT PUT TO THE VOTE. SECOND BEST OUTCOME WOULD BE MAXIMUM NUMBER OF ABSTENTIONS WHICH DELEGATION SHOULD MAKE EVERY EFFORT TO ENCOURAGE.

THERE FOLLOWS SUGGESTED TEXT OF STATEMENT EXPLAINING US ABSTENTION FOR YOUR USE IN EVENT RESOLUTION COMES TO VOTE:

BEGIN TEXT: MY DELEGATION HAS VERY CAREFULLY STUDIED THE RESOLUTION ON PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES. OUR DECISION TO ABSTAIN IS BASED ON THE FOLLOWING CONSIDERATIONS:
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(1) WE DO NOT BELIEVE THAT SOVEREIGNTY OVER NATURAL RESOURCES IS AN APPROPRIATE SUBJECT FOR SC ACTION UNDER THE CHARTER OF THE UNITED NATIONS. AS MY COLLEAGUES ARE ALL AWARE THE BASIC RESPONSIBILITY OF THE SC IS THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY. OF COURSE, WE WOULD NOT CONDONE THE USE OF COERCIVE MEASURES BY ONE STATE TO SECURE ADVANTAGES FROM ANOTHER STATE IN VIOLATION OF INTERNATIONAL LAW. BUT WE DO NOT ACCEPT THE PREMISES OF THIS RESOLUTION, NAMELY THAT ANY SUCH COERCIVE MEASURES ARE BEING USED OR THAT ANY MEASURES ARE BEING USED IN A MANNER LIKELY TO ENDANGER PEACE AND SECURITY IN LATIN AMERICA.

(2) ECONOMIC MATTERS OF THIS SORT WHERE THERE IS NO THREAT TO INTERNATIONAL PEACE AND SECURITY, ARE PROPERLY THE SUBJECT OF DISCUSSION IN ECOSOC (WHICH IS CURRENTLY SEIZED OF THE SUBJECT OF PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES) AND THE UNGA.

(3) THE US SUPPORTS THE CONCEPT OF PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES AS STATED IN GA RESOLUTION 1803, WHICH RECOGNIZES THAT SOVEREIGNTY OVER NATURAL RESOURCES IS TO BE EXERCISED IN ACCORDANCE WITH INTERNATIONAL LAW. THAT RESOLUTION EXPRESSLY PROVIDES THAT FOREIGN INVESTMENT AGREEMENTS SHOULD BE OBSERVED IN GOOD FAITH AND THAT APPROPRIATE COMPENSATION SHOULD BE PAID IN CASES OF NATIONALIZATION " IN ACCORDANCE WITH THE RULES IN FORCE IN THE STATE TAKING SUCH MEASURES IN THE EXERCISE OF ITS SOVEREIGNTY AND IN ACCORDANCE WITH INTERNATIONAL LAW." WE DO NOT FIND THESE POINTS CLEARLY REFLECTED IN THE UNBALANCED DRAFT BEFORE US.

(4) FURTHERMORE, THE DRAFT DOES NOT ADEQUATELY REFLECT PROVISIONS OF THE UN AND OAS CHARTERS AND THE INTER-AMERICAN TREATY OF RECIPROCAL ASSISTANCE WHICH PROVIDE FOR COLLECTIVE MEASURES INVOLVING COERCION AND WHICH ARE VITAL TO THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY. I AM SURE MY COLLEAGUES IN THE SECURITY COUNCIL, AFTER THOUGHTFUL STUDY AND THOROUGH DISCUSSION, WOULD NOT WISH TO BE ON RECORD AS SUPPORTING A RESOLUTION THAT MIGHT BE INTERPRETED AS WEAKENING THE
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POTENTIAL OF THOSE IMPORTANT INTERNATIONAL DOCUMENTS.

(5) I CITE THESE RESERVATIONS TO SHOW THAT THERE ARE MANY OBJECTIONS TO THIS RESOLUTION. THE PRINCIPAL OBJECTION, HOWEVER, IN OUR VIEW IS THAT IT DEALS WITH A

SUBJECT THAT IS NOT WITHIN THE PROPER COMPETENCE OF THE
UNITED NATIONS SECURITY COUNCIL. END TEXT. ROGERS UNQUOTE
ROGERS

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